IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 2192 OF 2006

Vijay Madhusudan Samant ...Petitioner
V/s.
The State of Maharashtra & Anr. ...Respondents

Mr.Rishi Bhuta for the Petitioner.
Mr.Y.S. Shinde, APP for State.

CORAM : V.M. KANADE, J.

DATED : AUGUST 27, 2007

P.C. :-

. Heard the learned Counsel for the petitioner.

2. The petitioner takes exception to the order passed by the trial Court dated 21.8.2006 whereby the application made by the petitioner for exhibiting the Xerox copy of the notice dated 17.1.2003 was denied on the ground that the said document is a Xerox copy.

3. The learned Counsel for the petitioner invited my attention to the deposition of Shri Satyasen Tiwari who has stated in his evidence that he had sent a notice to one Shri Vijay Samant on 17.1.2003 and Xerox copy was shown to the witness and he admitted having received the said notice and also admitted his signature. The

learned Counsel for the petitioner submits that there is no reason to refuse the application made by the petitioner and the trial Court ought to have exhibited the said document as it being the secondary evidence and obviously, since the notice was sent by said witness, the original could not have been in possession of the said witness. The witness having admitted to be the author of the said notice, the trial Court erred in rejecting the application of the petitioner for exhibiting the said document on the ground that it is Xerox copy. It is no doubt true that the witness should have stated that the original was not in his possession and therefore, Xerox copy had been produced. Be that as it may, since no objection was raised by the other side, there was no occasion for the trial Court to reject the application. The impugned order is set aside.

4. The trial Court is directed to exhibit the Xerox copy of the said notice. The trial Court to decide the case, as expeditiously as possible and in any case, within the period of three months.

. Writ petition is allowed in the above terms.

(V.M. KANADE, J.)